

REMARKS

Reconsideration of the application in light of the amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 1, 2, 7-9, 13, 14, and 25-42 are pending. Claims 1, 2, 7-9, 14, 25-31, and 41-42 have been amended.

Claims 9, 14, and 41 have been amended to correct minor typographical errors.

Claims 1, 2, 7-9, 25-31, and 41-42 have been amended so that they no longer positively recite part of the human body. No new matter has been added.

Claims 1 and 42 have been amended to better set forth what the applicant regards as his invention. No new matter has been added.

Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 2, 7-9, 13-14, and 25-41 are allowable once the rejection under 35 U.S.C. § 101 is overcome. Applicants have amended the claims and submit that the claims are in condition for allowance.

Rejections Under 35 U.S.C. § 102

Claims 1 and 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 3,756,247 to Hand ("Hand").

The Examiner indicates that the claim elements "the apex of the bulge," in claim 1, and "the highest point of the bulge," in claim 42, do not patentably differentiate from "the uppermost portion of the bulge of buttock, which is the region covered by the Hand garment." (Detailed Action, page 5, item 7.) In supporting this interpretation of the claim language, the Examiner cites the Merriam-Webster OnLine Dictionary as defining "apex" as "the uppermost point."

Applicants submit that because the claimed invention is described in reference to the position it is adapted to assume when worn on the human body, it is more appropriate to refer to a medical dictionary when interpreting the recitation of anatomical structures or positions. According to Steadman's Medical Dictionary, "apex" is defined as "[t]he extremity of a conical or pyramidal structure, such as the heart or the lung." See **Exhibit A**; STEADMAN'S MEDICAL DICTIONARY, 112 (26th ed. 1995). Furthermore, Applicants note that the dictionary cited by the Examiner further defines apex as the "vertex," or "the narrowed or pointed end." Applicants respectfully disagree with the Examiner's interpretation of the phrases "the apex of the bulge" and "the highest point of the bulge," as including "the uppermost portion of the bulge of buttock." The uppermost portion of the bulge does not form the extremity of a conical or pyramidal structure. The "vertex" of the bulge of the buttock is not at the "uppermost point."

However, in the interest of furthering prosecution, Applicants have amended claim 1 to recite, "the furthest dorsal point of the bulge," and claim 42 to recite "the furthest posterior point of the bulge." The buttock can be described as a conical or pyramidal structure, and thus, the "apex" of the bulge of the buttock can be located at "the furthest dorsal point of the bulge" or "the furthest posterior point of the bulge." Therefore, the present amendments to claims 1 and 42 do not alter the scope of the claim, as Applicants properly used the term apex, using its anatomical definition.

Moreover, Hand does not disclose a garment "adapted to cover a region extending from said position through the furthest dorsal point of bulge of each buttock," as recited in claim 1. Nor does Hand disclose a garment adapted to "extend over the furthest posterior point of the bulge of each buttock," as recited in claim 42. Thus, Applicants respectfully submit that Hand does not disclose each and every element of claims 1 and 42, and therefore reconsideration and withdrawal of the rejection is requested.

CONCLUSION

Each and every point raised in the Office Action dated November 15, 2005 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1, 2, 7-9, 13, 14, and 25-42 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

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